THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.19628 of 2006

Dated: 25.10.2007

Between:

Y.S.R. Prasad.

..... PETITIONER

AND

The Depot Manager, APSRTC,
Ibrahimpatnam Depot, Ibrahimpatnam,
Vijayawada, Krishna District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.19628 of 2006

Order:

This writ petition is filed seeking to quash the award passed by respondent No.2-Labour Court, Guntur, in I.D. No. 2 of 2003, dated 02.12.2004, in so far as denying the back wages, continuity of service and other monetary benefits.

The petitioner was appointed as Conductor in respondent No.1-Corporation on 29.08.1990. He was issued a charge sheet dated 15.11.1996 alleging that he was unauthorisedly absent from duties from 07.11.996 to 15.11.1996. The petitioner submitted his explanation denying the charges framed against him. Having not satisfied with the same, an enquiry was conducted into the charges. The Enquiry Officer, having conducted the enquiry, held the charges proved. Based on the findings of the enquiry report, a notice dated 22.04.1997 calling upon the petitioner to show cause as to why he shall not be removed from service was issued. Upon considering the explanation submitted by the petitioner thereto, vide order dated 23.10.1997, respondent No.1-Corporation ordered his removal. Against the order of removal, the petitioner filed appeal and revision petition before the appellate and revisional authorities, which were rejected. Thereafter, the petitioner raised an industrial dispute in I.D. No. 2 of 2003 and the Labour Court, vide the award impugned in the writ petition, set aside the order of removal and directed respondent No.1-Corporation to reinstate the petitioner into service without continuity of service and backwages Assailing the award of the Labour Court, in so far as denying the back wages and continuity of service, the petitioner filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondent No.1-Corporation. Both the counsel represent that the Labour Court, without appreciating the material and evidence on record properly, and without applying its mind to the facts of

the case, has passed the impugned award.

The impugned award passed by the Labour Court is very cryptic. The Labour Court, after framing the point that arises for consideration, namely whether the charges against the petitioner are proved, if so, whether the punishment of removal of the petitioner from the service is in proportion to the charges, passed only one paragraph order, which reads thus:

> "Ex.M4 is explanation to the charge sheet. The petitioner stated that on 07.11.1996 he was not doing well. He attended Govt. Hospital and obtained treatment. He sent sick certificate on the same day. He further stated that he was granted twenty days leave. He was sick for sixty seven days. He was absent for two days only. The petitioner admitted both the charges. I, therefore hold that the charges against the petitioner are proved but the punishment of removal of the petitioner from the service is not in proportion to the charges. Hence, I answer the point accordingly."

It is surprising to note that the Labour Court, after giving a finding that the charges against the petitioner are proved, felt that the punishment of removal from service is not in proportion to the charges, and accordingly set aside the removal order and directed respondent No.1-Corporation to reinstate the petitioner into service without back wages and without continuity of service. I am unable to understand on what basis the Labour Court has passed such an order. The Labour Court has neither appreciated the evidence nor dealt with the issues framed by it properly, in that, it has not assigned any reason to justify how the charges leveled against the petitioner are proved and how the punishment of removal imposed is disproportionate. The manner in which the Labour Court passed the impugned award, reflects that it has passed the same without applying its mind to the facts of the case.

Since the impugned award is a cryptic award, both the learned counsel for the petitioner as well as the learned Standing Counsel for respondent No.1-Corporation submitted that the impugned award be set aside and the matter be remanded to the Labour Court for passing fresh

award after hearing both the parties.

In the above view of the matter, the impugned award cannot be sustained and the same is liable to be set aside. Therefore, the writ petition is allowed, and the impugned award is set aside. The matter is remanded to the Labour Court for adjudication of the matter from the stage of arguments of both the sides. No costs.

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N.V. RAMANA, J.

Date: 25.10.2007
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